

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328
SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (the department) proposes to adopt Section 29.00 in Chapter 1, Division 1, Article 2.1 of Title 13, California Code of Regulations, relating to driver record checks for Commercial Driver License applicants.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **NOVEMBER 10, 2008**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Section 1651 of the Vehicle Code in order to implement, interpret, or make specific Sections 12805, 12807, 12808, 12809 and 15250, Vehicle Code; Parts 383 and 384 of Title 49, Code of Federal Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to adopt section 29.00 in Title 13, California Code of Regulations, relating to driver record checks. Because the language giving California the authority to check driving records is general in nature, the department has determined it necessary to promulgate regulations that specify information databases used to conduct the record check required in federal regulations and California statutes.

The Commercial Driver's License Information System, or CDLIS, is a system mandated by the federal Commercial Motor Vehicle Safety Act (CMVSA) of 1986. Among other things, the CMVSA requires states to connect to the CDLIS and the National Driver Register, or NDR, as a means to exchange information relating to a commercial vehicle licensee and the status and history of his or her driving record. CDLIS is a nationwide network database that stores information about commercial drivers. By using this

network, authorized users can report and access commercial driver information, license information, and driver history information necessary to regulate commercial drivers in the United States.

The National Driver Register (NDR) is a database that stores information about drivers who have had their driver license suspended or revoked. The database also contains information on drivers convicted of serious driving offenses such as driving under the influence of drugs and/or alcohol or reckless driving. When information is received as a result of a NDR search, the Problem Driver Pointer System (PDPS) will indicate the state where the individuals driving status and history information is stored. The state where the applicant is requesting licensure can then receive records by requesting them from the state holding the records.

While the department utilizes NDR and PDPS to retrieve information regarding driver license suspensions, revocations and offensive driving convictions, the department conducts a search of the CDLIS when it receives an application for a commercial driver license, in addition to the NDR search.

Vehicle Code sections 12805, 12807 and 12809 authorize the department to refuse issuance or renewal of a driver license when certain standards for licensing are not met. Vehicle Code section 12808 requires the department to check the applicant's record for conviction of traffic violations, traffic accidents and applicable reports and notices. Vehicle Code section 15250 establishes the requirements for issuance or renewal of a commercial driver license. Parts 383 and 384 of Title 49, Code of Federal Regulations, governs the issuance and renewal of commercial driver licenses, as well as the requirement for states to utilize specific databases when conducting driving record checks.

FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effects on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. These regulations codify the databases used when the department conducts a check of the driving record of a commercial driver license applicant.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons that the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Randi Calkins, Department of Motor Vehicles, P.O. Box 932382, Mail Station C-244, Sacramento, California, 94232-3820; telephone number (916) 657-8898, or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to Christie Patrick, at (916) 657-5567 or cpatrick@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.